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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,214	01/29/2004	Josef Mocivnik	P69454US0	3313
136	7590	12/17/2004	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			STEPHENSON, DANIEL P	
			ART UNIT	PAPER NUMBER
			3672	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/766,214

Applicant(s)

MOCIVNIK ET AL.

Examiner

Daniel P Stephenson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/21/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundell in view of Pearson. Lundell discloses a drill bit for drilling and, in particular, rotary percussion drilling a hole. The drill bit (10) is comprised of a drill head including a plurality of hard-material or hard-metal inserts (14) and a base body (12) to be connected with a driving element or the like for actuating or powering the drill bit. The hard-material or hard-metal inserts are received in bores or openings (24) of the drill head. The hard-material or hard-metal insert on the end received within the drill head is designed with a spherical surface contour that cooperates with a complementary curved surface of the drill head. The clear width of a bore or opening intended to receive the hard-material or hard-metal insert exceeds the external dimensions of the end of the hard-material or hard-metal insert to be received within the drill head. Lundell does not disclose that the end of the hard-material or hard-metal insert that is designed with the curved surface contour has external dimensions larger than the end of the hard-material or hard-metal insert projecting out of the drill head. Nor does it disclose that the hard-material or hard-metal insert received within the bore is surrounded by a weldable sleeve whose external dimensions are adapted to the clear width of the bore of the drill head. Pearson discloses a rock drill bit in which the dimensions of the inserts are larger at the end disposed within the retaining bore than in the

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end that extends from the bit face. In addition, there is a retaining sleeve that is made from a steel alloy that retains the insert within the bore provided for it. The sleeve is dimensioned to the clear width of the bore of the drill head. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the shape and retaining sleeve of Pearson with the insert of Lundell. This would be done so that the insert would be retained with more force.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundell in view of the EP document '534 to Jennings et al. (hereafter EP '534). Lundell discloses a drill bit for drilling and, in particular, rotary percussion drilling a hole. The drill bit (10) is comprised of a drill head including a plurality of hard-material or hard-metal inserts (14) and a base body (12) to be connected with a driving element or the like for actuating or powering the drill bit. The hard-material or hard-metal inserts are received in bores or openings (24) of the drill head. The hard-material or hard-metal insert on the end received within the drill head is designed with a spherical surface contour that cooperates with a complementary curved surface of the drill head. The clear width of a bore or opening intended to receive the hard-material or hard-metal insert exceeds the external dimensions of the end of the hard-material or hard-metal insert to be received within the drill head. Lundell does not disclose that the end of the hard-material or hard-metal insert that is designed with the curved surface contour has external dimensions larger than the end of the hard-material or hard-metal insert projecting out of the drill head. Nor does it disclose that the hard-material or hard-metal insert received within the bore is surrounded by a weldable sleeve whose external dimensions are adapted to the clear width of the bore of the drill head. EP '534 discloses a rock drill bit in which the dimensions of the inserts are larger at the end disposed within the retaining bore than in the end that extends from the bit face. In addition,

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there is a retaining sleeve that is made from a steel alloy that retains the insert within the bore provided for it. The sleeve is dimensioned to the clear width of the bore of the drill head. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the shape and retaining sleeve of EP '534 with the insert of Lundell. This would be done so that the insert would be retained with more force.

*Allowable Subject Matter*

4. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gardner, Hasiba, Yuh, Asberg et al., Linden et al., Boyd, Dyer and the pre-grant publication '890 to Meyers et al. all show similar elements to those of the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P Stephenson whose telephone number is (703) 605-4969. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on (703) 308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Bagnell  
Supervisory Patent Examiner  
Art Unit 3672

DPS *WR*